

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.954 OF 2005

IN

FIRST APPEAL NO.674 OF 2001

Shri Chandrashekhar Madhukar
Karnik

...

Applicant

Vs.

Ajit Prabhakar Deshpande
& Ors.

...

Respondents

Ms. Nipa K. Pandya i/b M/s. Mahesh Menon & Co. for
the applicant.

Mr. K.K. Malpathak for the respondents.

CORAM: SMT. RANJANA DESAI, J.

DATED: 10TH MARCH, 2005.

P.C.:-

1. This civil application is filed by the original
plaintiff. Prayers (a) and (b) of the civil application
reads thus:

"(a) that this Hon'ble Court may be pleased
to direct the Respondents to permit
access from the first floor to one of
the bathrooms in the suit premises
through the staircase shown as blue
shaded portion in the plans annexed as
Exhibit "A-1" and Exhibit "A-2"
hereto;

(b) that this Hon'ble Court may be pleased to direct the Respondents to permit access through the main door of the Suit premises for the purpose of inspecting the electricity meter installed by the MSEB in respect of the entire house in which the Suit premises is situated." COPY OUT

2. To this civil application, the respondents/defendants have filed a reply. The reply has been filed by one Dilip Prabhakar Deshpande, on behalf of the respondents. In the affidavit, it is stated that the respondents have no objection if the plaintiff is desirous of using and occupying the premises on the first floor which is in his possession. It is further stated that the respondents have no objection if the plaintiff uses the bathroom on the ground floor by making proper repairs to the internal staircase. An apprehension is, however, expressed that the plaintiff may try to forcibly dispossess the respondents. It is also stated that the respondents are ready and willing to give access to the plaintiff and the M.S.E.B. officers to approach the electricity meters, which is at the right hand corner next to the "Entry to the first floor from outside" shown in Exhibit A-1 annexed by the applicant to the civil application.

3. So far as the fear that the plaintiff is likely to

dispossess the defendants is concerned, the plaintiff has drawn my attention to the averments made in the civil application that the plaintiff has no intention whatsoever to dispossess the respondents from the suit premises except by due process of law. That should allay the fears of the respondents. The plaintiff is expected to abide by his own statement.

4. In view of the above, I see no difficulty in granting the civil application. Hence, the following order.

5. The respondents shall permit the plaintiff access from the first floor to one of the bathroom in the suit premises through the staircase shown as blue shaded portion in the plans annexed as Exhibit "A-1" and Exhibit "A-2" to the civil application after carrying out the necessary repairs. The plaintiff and M.S.E.B. officers are also permitted to approach the electricity meter from the door which is at the right hand corner next to the "Entry to the first floor from outside" shown in Exhibit "A-1" annexed by the plaintiff to the civil application.

6. Civil application is disposed of in the aforesaid terms.

7. All concerned to act on the authenticated copy of the order.

(SMT. RANJANA DESAI, J.)